

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket No. 14305US02)

In the Application of:

Jeyhan Karaoguz, et al.

Serial No. 10/675,489

Filed: September 30, 2003

For: METHOD AND SYSTEM FOR
MEDIA EXCHANGE NETWORK
WITH SERVICE USER
INTERFACE

Examiner: Patrick A. Ryan

Group Art Unit: 2427

Confirmation No. 6006

*Electronically Filed on
April 19, 2010*

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reasons stated on the attached sheets.

Respectfully submitted,

Date: April 19, 2010

By: /Joseph M. Butscher/
Joseph M. Butscher
Reg. No. 48,326

McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661
Telephone: (312) 775-8000
Facsimile: (312) 775-8100

REMARKS

Claims 1-32, 34, 37, 39, 42, and 44 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. 6,668,278 ("Yen"). Claims 33, 38, and 43 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Yen in view of U.S. 6,839,072 ("Trajkovic").

The Applicants previously demonstrated that the Office Action fails to demonstrate that Yen describes, teaches, or suggests "delivering said announcement along with the broadcast television program for display on a television screen within said home, **wherein said user decides if and when said announcement should be received, wherein said user chooses when to view said announcement,**" as recited in claim 1, for example. Claims 11 and 21 recite similar limitations. *See* December 1, 2009 Amendment at pages 12-15. The Final Office Action does not remedy this failure.

More particularly, Yen "relates to techniques for presenting broadcast and other information." *See* Yen at column 1, lines 10-12. The system of Yen includes a "background" element, which interacts with interactive information sources and receives from passive information sources, and determines whether information from those sources is likely to be interesting to the recipient." *See id.* at column 3, lines 16-21.

"The background filters and preferably prioritizes the information sources in response to the recipient preferences (**whether explicitly stated by the recipient or deduced in response to the recipient's viewing habits or other information about the recipient**)." *See id.* at column 3, lines 54-58 (emphasis added). Based on such information, the "background element 111 can determine the likely degree of interest the recipient will have in each information item, and so determine whether to transmit

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those information items to the foreground element 112." *See id.* at column 9, lines 30-33.

The background element of an information multiplexor "records a set of preferences for the recipient, indicating the types of information the recipient is likely to be interested." *See id.* at column 9, lines 53-56.

Yen also discloses responsive alert thresholds. In particular, Yen discloses the following:

In a preferred embodiment, the alert threshold (or the alert criteria) is responsive to at least one of the following:

Being set **explicitly by the recipient**. The recipient can specify separate threshold responsive to preference factors and exogenous factors described just below. Where the recipient has specified interest in particular classes or particular periodic information items, the recipient can specify an alert threshold for interrupting those items.

* * *

Being set **implicitly responsive to exogenous factors, including the day of the week, a time of day, or a number of recipients present for viewing the alerted item, or a particular information item currently being viewed by the recipient.**

See id. at column 12, lines 7-31 (emphasis added). Thus, Yen notes that the recipient may explicitly set the threshold responsive to certain factors. Yen also notes that the alert threshold may be **implicitly** responsive (that is, **not** set explicitly by the recipient).

Yen does not describe, teach or suggest, however, that **a user decides if and when an alert should be received, and when to view the alert**. That is, Yen does not describe, teach or suggest "**wherein said user decides [1] if and when said announcement should be received, [and] [2] wherein said user chooses when to**

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view said announcement," as recited in claim 1. Independent claims 11 and 21 recite similar limitations.

Because the Final Office Action does not demonstrate that Yen describes, teaches, or suggests "**wherein said user decides if and when said announcement should be received, wherein said user chooses when to view said announcement**," as recited in claim 1, for example, the Final Office Action has not established a *prima facie* case of anticipation or unpatentability with respect to the pending claims. Thus, for at least these reasons, the Applicants respectfully request reconsideration of the claim rejections.

The Commissioner is authorized to charge any necessary fees, including the \$30 fee for the Notice of Appeal (Applicants previously paid \$510 for Notice of Appeal on June 23, 2008), or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

Date: April 19, 2010

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Chicago, Illinois 60661
Telephone: (312) 775-8000
Facsimile: (312) 775-8100

Joseph M. Butscher/
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Registration No. 48,326